

W1216

MR. M. C. CAMERON'S SPEECH

ON THE

BOUNDARIES OF ONTARIO.

HOUSE OF COMMONS,

TUESDAY, 4th April, 1882.

Mr. CAMERON (South Huron). I think, Mr. Speaker, it was not in good taste for the hon. gentleman who has just taken his seat to lecture my hon. friend from Bothwell (Mr. Mills) as to the way in which he dealt with Judge Johnson. Judge Johnson is still in the land of the living, and able to answer for himself. The hon. gentleman himself, about ten minutes before, undertook to cast an unwarranted and unjustifiable reflection upon one of the ablest and best Judges that ever graced the Bench of Ontario, who is now in his grave and unable to answer for himself. He ventured to tell us that the able paper of the late Chief Justice Draper, upon the claims of the Hudson's Bay Company to the territory now in question, was the statement and argument of an advocate—a paid advocate—

Mr. DAWSON. Allow me to contradict the hon. gentleman. I said nothing about a paid advocate, and I cast no reflections, and meant no reflections, upon Mr. Justice Draper, a gentleman for whom I always entertained the highest esteem, and I entertain now the highest regard for his memory.

Mr. CAMERON. I do not know the amount of respect the hon. member entertains for the memory of the late Chief Justice Draper. All I know is that the hon. member, in my hearing, did cast reflections on the honesty and integrity of a Judge who, he said, was an advocate. Why was he an advocate? And why should the hon. gentleman speak of him as an advocate except that this House and the country might be led to believe that very little reliance could be placed upon his opinions, and it was possible he might have advanced claims more than he was just-

LP

F5012

1882

C18B

fied in advancing? If that is not a reflection upon the late Chief Justice Draper, I would like to know what is a reflection. Now, I do not desire to enter into a long argument on the merits of this question; I do not desire to go back 200 or 300 years and ransack all the old Acts of Parliament, proclamations and commissions that have any bearing on the present controversy. They are all important in their way, but the hon. member for Bothwell has dealt so fully and so exhaustively with that branch of the case that I do not propose troubling the House with any lengthened dissertations on that part of the early history of the North-West. I may say, however, that after having looked into these documents myself, I have satisfied my own mind, at all events, that the western boundary of Ontario is as far, if not farther, west than that fixed by the award; but these are not the only documents to which I wish to refer. There are other documents to which I shall have occasion to draw the attention of the House before I conclude my argument. I may say, Sir, that this is not the first time, and this is not the first Parliament, in which this important question has been up for discussion. It was a living issue in the old Province of Canada, years before Confederation took place. The Government of the Province of Canada, for a number of years, for at least a quarter of a century, was vigorously and steadily pressing the claims of the Province of Canada to the western boundary, as far, if not farther west, than the boundary fixed by the award. Upon that subject we have many valuable contributions, many valuable reports, and many valuable state papers; and I venture to say that any person who takes the trouble to peruse those documents submitted to Parliament in days gone by, will rise from their perusal with the conviction firmly impressed on his mind that the claims now advanced by the Province of Ontario are well founded claims. I must confess, Sir, that my own mind was led irresistably to the conclusion that the claims of Ontario were well-founded claims, by the documents submitted to Parliament and the arguments and statements advanced by the right hon. gentleman who now leads the House, through his colleagues in days gone by. If the arguments so advanced twenty years ago were then valid and sound, they are equally valid and sound to-day; there is no pretence, so far as I have heard, that any new light has been thrown on the subject since Confederation. The hon. member who has just taken his seat, who has made this question one of his hobbies, and who understands it perhaps as well as most men in the House or out of the House, does not pretend to say that any new light has been thrown on the subject within the

last twenty years. The hon. member referred to the report of the late Chief Justice Draper on this question. Let me also direct the attention of the House to that report. In 1857, the hon. member who now leads the House was leader of the Government of the old Province of Canada. Questions then arose as to the rights of the Hudson's Bay Company to the vast territory to the west of us, and as to the western boundary of the old Province of Canada; and the late Chief Justice Draper, than whom no abler man could be found to deal with the subject, was selected by the Government of the day to make an exhaustive inquiry into the claims of the Hudson's Bay Company under their charter, and into the subject of the western and northern boundaries of the old Province of Canada. With a zeal and vigor which were always characteristic of that distinguished Judge, he set to work on the duty assigned him. He made a thorough investigation, and what conclusion did he arrive at? The conclusion he arrived at was approved of by the hon. gentleman who leads the Government. And what was that conclusion? The conclusion he arrived at with respect to the claims advanced by the Hudson's Bay Company was that the right to the territory then claimed by the Company was more than problematical. It was extremely doubtful. The conclusion arrived at with respect to the western boundary of Ontario, will be found in the document that the Crown published and such conclusion fully justifies the award. If his conclusion upon that subject is correct, the western boundary of Ontario extends, at all events, westward as is described in the award of the arbitrators. That conclusion has never been repudiated by the Government of the day. It has never been repudiated by the First Minister. It has never been repudiated, so far as I am aware, until lately by any of the followers of the present Government. That is not all. Recollect, Sir, that in the statements I am presenting there is nothing original. There is nothing new; my arguments and statements are the arguments and statements of hon. gentlemen opposite when they considered this question from an impartial and non-political standpoint. If the arguments were right then they have equal force now. If the arguments presented by the right hon. leader of the House, through his colleagues, twenty years ago were correct, they are equally correct now. In 1857, a colleague of the present leader of the House, then Commissioner of Crown Lands was appointed by the Government to make an enquiry similar in character to the enquiry of the late Chief Justice Draper. After having exhausted all the material then at his command, and which was substantially the material and evidence submitted to the various Committees which have dealt with

this subject up to the present day, what conclusion did he arrive at? He pointed out that in 1670, when the English Government granted the charter to the Hudson's Bay Company, about which so much has been heard in the last eight or ten years, the English Government had no right and no power to grant that territory, simply because the territory did not belong to the English crown. He further points out that by virtue of that charter the Imperial Government undertook to grant to the Hudson's Bay Company vast territories in the west which they did not own, and undertook to grant to the Company any undiscovered territories that they might discover which were not in the possession of any Christian Prince. He deals with the latter branch of the case summarily in his valuable state paper, from which I take the following extract, in reference to any supposed rights that the Company might have acquired by virtue of discovery. He says:

"In fact, except the Copper Mine River the Company never discovered anything or penetrated beyond the coasts and confines of the Bay to which, perhaps they at that time justly considered their rights restricted) for upwards of one hundred years after their charter, and that when they did so penetrate, the only discovery they made was that the whole country in the interior had been long in the peaceable possession of the subjects of another Christian prince."

The leader of the House through his colleague thus clearly points out that as discoverers of unknown territory the Hudson's Bay Company acquired no rights to the vast region under discussion, and that the claim of the Company depended on whether or not the Imperial Government had the right to convey the territory to them, and that right depended on a series of disputed facts. He then deals with the respective rights of England and France to the territory. He points out that in 1497 the Cabot brothers were supposed to have discovered this portion of the new world, but he points out also that no reliance whatever can be placed on the discoveries made by them, because no record was kept of what they did. No evidence appears at all events to-day, no evidence ever appeared that they ever landed on the shore, or took possession in any formal way, or if they did that they retained possession of any portion of that country. Therefore, so far as their alleged discoveries are concerned, no importance could be attached to them as giving to the English Crown the power to convey to the Hudson's Bay Company, and that no evidence existed of any specific territorial claims vested in the English Government in 1670. Then the colleague of the right hon. First Minister points out upon what ground the French based their claims. He says that in 1504 the fishermen of Brittany established fisheries on the shores of Hudson's Bay; that in 1506 a French map

was published by Jean Deny, indicating this possession by the French; that a geographical work was published in 1677 to which was attached a map which fixes the point of possession by the French fishermen at Hudson's Straits; that in 1523 a certain navigator named Jean Vereyzani, under instructions from Francis I. of France, visited the country and, for the Crown of France, took possession of the country and called it New France; and that then no one was in possession, unless it were the French. If the Cabots did discover the country they abandoned their possessions, and no one was then in possession of this vast section of country unless it were the French, clearly no one under the English Crown. Then the colleague of the right hon. gentlemen points out, in this valuable and important State paper, the fact of the discovery and the possession by the English, but subsequently abandoned, and the important fact of the discovery by the French and of the possession and retention of such possession by the French, and he then uses the arguments made use of by the English with respect to the Oregon boundary. He says:

"It is a circumstance not to be lost sight of that it (the discovery by Gray) was not, for several years, followed up by any Act which could give it value in a national point of view; it was not, in truth, made known to the world, either by the discoverer himself or by his Government."

Then the hon. First Minister, through his colleagues, goes on through a series of events subsequent to that, pointing out that all this country was in the possession of the French from the first discovery until the territory was ceded by France to Great Britain. He points out that, in 1540, de Roberval was made Viceroy of Canada, and that the description in his commission covered the Hudson's Bay territory; that in 1598 de la Roche was made Governor of Canada over precisely the same territory as that over which de Roberval was made Viceroy, and that these voyages and early discoveries by the navigators clearly show that the French were really in possession of the country and entitled to hold it at the very time the English Government granted it to the Hudson's Bay, and that therefore nothing passed under that charter. Then the hon. First Minister, through his colleague, goes further and contends vigorously that France was entitled to the territory by virtue of treaty obligations. He points out that by the treaty of 1632, the treaty of St. Germain-en-Laye, Canada was relinquished to the French, and that the territory in question was covered by that treaty. He points out still further, in confirmation of the government of that day, that in 1629

Champlain, who was the Viceroy of France, was captured in Quebec and carried to England as a prisoner of war, and that while he was such prisoner he published a map showing that the Hudson's Bay's country formed part of New France. He further points out that through all these years and down to 1670 when the English Government granted the charter to the Hudson's Bay Company, France and not England occupied this territory, and that, therefore, no rights were legally granted to the Hudson's Bay Company over the land in dispute. This condition of affairs remained unchanged for half a century, and during all that time France remained in undisturbed possession of the country. Then war again broke out between England and France. That war was ended by the Treaty of Ryswick in 1697; at that time England had possession of Fort Albany only—all the rest of the territory was in the possession of the French. But under the provisions of that treaty each nation was bound to deliver up to the other all the possessions they had prior to the war and especially in Hudson's Bay, and so under that treaty Fort Albany alone of all the vast territory claimed by the Company was held by it down to the Treaty of Utrecht in 1713. And so, Sir, it may be said that the rights of the respective Crowns of France and England continued unchanged until the treaty of 1763, when the territory was ceded, with whatever rights and franchises belonged to it, to Great Britain, up to the Mississippi River. But these are not all the arguments advanced by the right hon. gentleman's colleague on this important subject, and as the head of that Government he must bear the responsibility of the position then taken. He pointed out with great force and vigor, and with great energy, the fact that the Quebec Act of 1774 gave Quebec all the territory I have just spoken of, and that is covered by the description in the commission that was issued to Sir Guy Carleton in that year. It may be well to refer for a moment to what that description does cover, because it covers a good deal more territory than hon. gentlemen opposite are now willing to concede to the Province of Ontario, or to admit belonged to the old Province of Quebec, and as a consequence, to the new Province of Ontario, although not more than they themselves at one time contended for. After describing at some considerable length the boundaries of the territory over which Sir Guy Carleton was appointed to govern, the description in the commission thus proceeds:

"And thence along the western boundary of the said Province until it strikes the River Ohio, and along the banks of the said river to the southern boundary of the territory granted by the Merchants Adventurers of England trading to Hudson's Bay, and also all such territories, islands and countries which have, since the 10th day of February, 1763, been made part of the Government of Newfoundland as aforesaid

together with all the rights, members and appurtenances whatsoever hereupon belonging."

In the paper to which I have referred, and from which I have just quoted, the Commissioner of Crown Lands, who was a colleague of the present hon. First Minister, contended vigorously and strongly for that boundary. The argument presented is strong, forcible, and conclusive in so far as hon. gentlemen opposite are concerned; but that is not all. At a much later period than that to which I have referred, hon. gentlemen opposite took equally strong grounds on this question. Some twelve years ago, two colleagues of the hon. gentleman who leads the House were entrusted with the important task of ascertaining the rights of the Hudson's Bay Company to this vast territory, and of ascertaining the boundaries of old Canada—the late Sir George Cartier and the member for Halton. They examined into this matter with very great care and upon that examination took stronger ground on this question than we on this side take now. It may be worth while drawing the attention of hon. gentlemen opposite to the strong grounds taken by the two colleagues of the First Minister, when acting for the old Province of Canada; it is also important to consider the matured judgment of these distinguished statesmen at a subsequent period. What did the hon. gentlemen say in their correspondence with Sir F. Rogers, of the Colonial Office, in 1869, on the subject. They said:

"The assertion of the Deputy-Governor of the Hudson's Bay Company that the country between Lake of the Woods and Red River is 'the freehold territory of the Company,' and that the so-called 'trespass' of the Canadian Government in sending provisions to the starving settlers, and assisting them to make a road for their own convenience and safety hereinafter, is 'an actual encroachment on the soil of the Company,' might, if unnoticed by us, be claimed by another proof or admission of the rights of the Company in that part of the continent. We, therefore, beg to remind His Lordship that the boundaries of Upper Canada on the north and west, were declared, under the authority of the Constitutional Act of 1791, to include 'all the territory to the westward and southward' of the 'boundary line of Hudson's Bay,' to the utmost extent of the country commonly called or known by the name of Canada. Whatever doubt may exist as to the 'utmost extent' of old, or French Canada, no impartial investigator of the evidence in the case can doubt that it extended to, and included, the country between Lake of the Woods and Red River."

When the correspondence between the Colonial Office and the First Minister's colleagues had gone a step further, another letter was addressed by them to the Colonial Office, and as the arguments in this letter are cogent I will trouble the House with the following extracts from it:—

"1. The Charter of Charles II. (and for the present we raise no question as to its validity), could not and did not grant to the Hudson's Bay Company, any territory in America which was not then (1670), subject to the Crown of England.

"2. The Charter expressly excluded all lands, &c., 'then possessed by the subjects of any other Christian Prince of State.'

"3. By the Treaty of St. Germain-en-Laye (1632), the King of England resigned to the King of France, the Sovereignty of Acadia, New France, and Canada generally, and without limits.

"4. 'La Nouvelle France' was then understood to include the whole region of Hudson's Bay, as the maps and histories of the time, English and French, abundantly prove.

"5. At the Treaty of Ryswick (1697), twenty-seven years after the date of the Charter, the right of the French to 'places situated in the Hudson's Bay,' was distinctly admitted; and although commissioners were appointed (but never came to an agreement) to 'examine and determine the pretensions which either of the said Kings hath to the places situate in the Hudson's Bay,' and with 'authority for settling the limits and confines of the lands to be restored on either side;' the places taken from the English (i.e., from the Hudson's Bay Company), by the French previous to the war, and 'retaken by the English during this war, shall be left to the French by virtue of the foregoing (the 7th) article.' In other words, the forts and factories of the Hudson's Bay Company, established in Hudson's Bay under pretence of their Charter, and taken possession of by the French in time of peace, on the ground that they were an invasion of French territory, were restored, by the Treaty of Ryswick, to the French, and not to the Company.

"6. By the Treaty of Utrecht, 1714, 'the Bay and Straits of Hudson, together with all lands, seas, sea coasts, and places situate in the Bay and Straits, and which belong thereto,' were finally ceded to Great Britain.

"7. As no definite boundary was ever established between the possessions of the French in the interior and the English at Hudson's Bay, down to the Treaty of Paris, 1763, when the whole of Canada was ceded to Great Britain, the extent of the actual possession by the two nations for some period, say from the Treaty of Utrecht to the Treaty of Paris, affords the only rational and true basis for ascertaining that boundary.

"8. The evidence is abundant and conclusive to prove that the French traded over and possessed the whole of the country known as the Winnipeg Basin and 'Fertile Belt,' from its discovery by Europeans down to the Treaty of Paris, and that the Hudson's Bay Company neither traded nor established posts to the south or west of Lake Winnipeg, until many years after the cession of Canada to England.

"9. No other or subsequent grant to the Company was ever made which could possibly extend their territorial rights under their Charter. The license to trade in the Indian territories, which they obtained in 1821, was revoked in 1858, and has not been renewed.

"10. The country which, in view of these facts, must be excluded from the operation of the Charter, includes all the lands fit for cultivation and settlement in that part of British America."

It would have been well for the member for Niagara (Mr. Plumb) before taking the ground he did, to refer to the arguments and the statements of the hon. gentleman that he with so much fidelity supports. He then took stronger and higher ground on this subject than we take now. He pointed out what the charter of King Charles the II. granted to the Company and exactly what the Company held under it. Now, I say that is conclusive against hon. gentlemen opposite. They are not my arguments, they are the arguments of the hon. gentlemen opposite, of the hon. First Minister and of his colleagues. They are powerful, they are unanswerable, and if they were strong and powerful in 1869 and 1857, they are equally so to-day. No new light has been thrown on the subject since. Nothing has taken

place to warrant a change in the opinion of hon. gentlemen on the subject. Sir, if they were right then, they are clearly wrong now. To my mind these arguments carry conviction beyond a doubt, and if hon. gentlemen have changed their opinions as to the western and northern boundaries of the Province of Ontario, if they have arrived at a different conclusion now to what they entertained twelve years ago, it is not in the interests of Ontario or of the Dominion that such changes of opinion have taken place but to serve some political purpose best known to themselves.

It being Six o'clock the Speaker left the Chair.

After Recess.

Mr. CAMERON. When you left the Chair at six o'clock I had pointed out to the House that the Conservative party, led by the present Premier, was committed, as far as they could be by their solemn declaration, to the fact that the boundary of the old Province of Quebec was, at least, as far west, if not farther west, than the boundary given to Ontario under the present award. I pointed out that at least four eminent Canadian statesmen who had occupied for years, and some of whom still occupy, a prominent place in the councils of the Sovereign, had given expression in no unmistakeable manner to their opinions on this subject. I now propose submitting for the consideration of this House the opinions of two other Canadian gentlemen of eminent ability, men who perhaps above all others are supposed to be conversant with this question, men who are eminent in their own profession, and who have occupied for some years a distinguished place in the history of Canada—I allude to the Dawson Brothers, who have, in documents that are now public property, given expression to their opinions on this question in a manner that no man can misunderstand. I will first submit to the House the opinions of Mr. Wm. McD. Dawson. Of course, I do not suppose that either of them is any relation to the gentleman who has just addressed the House. I regret the hon. member for Algoma is not now in his place, because I am sure he would be very much interested in this part of my argument. I am sure those old historic reminiscences would be agreeable and pleasant to his cultivated mind. Mr. Wm. McD. Dawson, in giving his evidence before a Committee of the Legislative Assembly of Canada, on the question of the boundary of the old Province of Quebec, and the rights of the Hudson's Bay Company to the territory that was claimed by them, on the 8th of June, 1857, said, among other things:

"The result of my investigation has been to demonstrate that in the Red River and Saskatchewan countries, the Hudson's Bay Company

have no right or title whatever, except what they have in common with other British subjects. Wherever they have any possession or occupancy, there they are simply squatters, the same as they are at Fort William, Lac Cloche, Lake Nipissing, or any of their other ports in Canada."

Again, he says with respect to the judicial decisions that the hon. member for Algoma referred to, and which, according to his view, placed this question beyond the region of parliamentary or other discussion. With reference to the judgment of the Court in the Reinhardt case, he says:

"In May, 1818, Charles de Reinhardt was tried at Quebec, for murder committed in 1816, on the River Winnipeg, under the Canada Jurisdiction Act. Exception was taken to the jurisdiction of the Court, on the ground that the locality was not in the Indian territory, but within the limits of Upper Canada. The Court overruled the objection, and decided that the westerly boundary of Upper Canada was a line on the Meridian of 86° 50' west longitude from London."

Mark what the hon. gentleman says with respect to that judgment. Now, here is a man, eminent in the profession of Civil Engineer and Surveyor, who says about this judgment which the hon. member for Algoma accepts with such confidence:

"I hardly think that any surveyor, geographer or delineator of boundaries, of any experience or scientific attainments, would concur in that decision."

He goes further and says:

"I confine myself, in the foregoing remarks, to the Red River and Saskatchewan country. It will be seen that the Imperial authority, the military authorities and the Courts of Justice, have all ignored the pretensions of the Hudson's Bay Company as regards those countries."

Now, Sir, if Mr. Dawson was correct, when he gave his testimony as a witness before a Committee of Parliament appointed to investigate this question, I submit that that opinion is entitled to the utmost weight in a discussion of this subject. That is not all. There is another Dawson who occupied an equally prominent place in the history of this country, who has been in the Legislature of Ontario, and who occupied a seat on the floor of this Parliament. Anybody who has watched the course of events in the Legislature of Ontario between 1875 and 1878, knows exactly the pronounced opinion of that hon. gentleman on this question. His contention has always been that the western boundary of Ontario extended considerably beyond the boundary assigned to it in the award. I contend that in giving expression to his opinion, I believe upon more than one occasion in the Local Legislature of Ontario, that hon. gentleman put his views on record, in the shape of a resolution, urging with the utmost vigor upon the Government of Ontario the propriety, nay the absolute necessity, of taking immediate and active steps to secure for Ontario the

recognition of her boundary extending beyond the Lake of the Woods westward according to his then contention. Let us see what he said upon that subject in a famous state paper I hold in my hand. It is well to remind hon. gentlemen on the other side of the House of these expressions of opinion given by themselves or their colleagues and their followers in and out of Parliament, because if these expressions of opinion were correct in the days when they were given they must be equally correct now. On 8th June, 1857, S. J. Dawson, Esq., published a document of considerable importance in which he entered at length into the subject of the boundaries. Permit me, for the edification of the House, and for the information of the hon. member for Algoma, whom, I think, knows something of the document, to refer to it for a moment. After discussing the question for some time, and pointing out upon what slender foundations the claims of the Hudson's Bay Company were based, and how strong were the claims of Canada, he went on to say:

"The vast region now forming, in whole or in part, the States or Territories of Nebraska, the western portions of Minnesota and Dakota, Iowa, Montana, Wyoming and Colorado to the summit of the Stony Mountains, with several other States to the south, and a portion of the Dominion of Canada near the Rocky Mountains to the north, are within the territory which, at the date of the Treaty of 1783, was known as Louisiana. By the second article of the Treaty of 1783, the boundary established between the British possessions and the United States, in as far as regards the part of the continent under consideration, was a line 'from the most north-western point of the Lake of the Woods, on a due western course to the Mississippi'; and in a Royal Commission issued to Governor Lord Dorchester, in 1786, the part of Canada forming the then Province of Quebec is described as being bounded by a line 'from the most north-western point there of (i. e. the Lake of the Woods) is a due west course to the River Mississippi, and northward' to the southern boundary of the territories granted to the Merchants Adventurers of England trading to Hudson's Bay.

"It will then be seen that the western limit of Canada, on the line running due west from the Lake of the Woods, was at that time a matter of interest to three nations. The United States could not go west of the Mississippi, or this boundary recognized as representing that river, nor the nation possessing Louisiana come east of it; while as regards Canada the Province of Quebec was to have both her western limit on the due west line, and her entire western boundary running north to the territories granted to the Merchants Adventurers determined by the point at which the boundary between the United States and Louisiana should meet the due west line from the Lake of the Woods.

"It is well known that the tributary of the Mississippi system, now called 'the Mississippi' is but a small stream in its upper reaches, having its source a little to the north of the parallel of 47°, in numerous brooks and countless lakelets far to the south and east of a due west line from the Lake of the Woods.

"It does not, therefore, meet the description, and the question arises as to whether it really is the Mississippi meant by the diplomats who framed the Treaty of 1873, or whether it is not more reasonable to believe that both they and their predecessors who negotiated the Treaty of 1873 had in view the main artery of the vast river system to which the comprehensive name of the Mississippi was applied in those days."

What does the hon. gentleman mean by the statement published in this document? Does he contend that the western boundary of the Province is east of the Lake of the Woods? No; his whole argument in this paper is that the boundary line of the Province of Ontario is west by nearly 400 miles from the point at which the arbitrators fixed it. He says that the western limit is where a line drawn from the most western point of the Lake of the Woods would intersect the Mississippi river of the earlier geographers. That in those days the whole of the river system of that region was known as the Mississippi; that the line in question would not intersect the Mississippi of to-day, but it would the White Earth river, a tributary of the Mississippi, and that this tributary is undoubtedly what the statesmen and geographers of that day meant. The hon. gentleman not only analyses the testimony, but also the maps of the early days. No member regrets more than I do the necessity of reading extracts from parliamentary documents or from State papers to the House, but when I find an hon. gentleman declaring that the award in favor of Ontario is improper and gave her too much territory, when at a former period, and after calm deliberation, he entertained an entirely opposite opinion on the same facts, I think it is desirable that the country should know the fact, in order that they may be able to attach just as much value and importance as they deserve, and no more, to expressions of opinion given to-day on the floor of Parliament on those questions. Let us see what the hon. gentleman says on this question. After having analysed the maps, he said:

"3rd. That a branch or tributary of the Mississippi (or Missouri, rather, which is itself a branch of the Mississippi) called the White Earth River, is actually intersected by the due west line in question, within a comparatively short distance of the point at which the supposed river, represented on the maps as the boundary of Louisiana, and which it is evident they had in view, would have been intersected by that line. "Judging from these maps, it is impossible to avoid the conclusion that the true intent, meaning and spirit of the Treaty of 1783 was that the western boundary of Canada and the United States and the eastern limit of Louisiana, on the due west line should be at a point upwards of 450 miles west of the Lake of the Woods."

But what need to make or adopt imaginary lines, or quibble about the word "Mississippi," which is in fact the name of an immense river system, when the true spirit and even letter of the treaty can be met by adopting the line already run on a due west course, as expressed in the Treaty, "to the Mississippi," or at least to its first waters at the White Earth River, which this "due west line" does intersect only a little way to the west of the supposed Mississippi which the representatives of the nations interested, as shown by the maps of the time, intended as the western boundary of Canada and the United States, and the eastern limit of Louisiana, on a "due west line from the Lake of the Woods."

What, Sir, has changed the hon. gentleman's opinion? What has come over the spirit of his dream? Why does

the hon. gentleman object to the award? Does Ontario get more than she is entitled to? The hon. gentleman has not condescended to tell us what are his objections to the award, only he says it is an absurd boundary; that there is no justification, in fact, or law for it; and that there is no statesman or geographer, that ever studied the subject, would have dreamed of laying down a boundary such as the arbitrators have laid down. But let me go a step further. In order to fix the western and northern boundaries of Ontario. I attach great importance to the description given in the Quebec Act of 1774 and the commissions issued under it. The hon. gentleman says that these commissions do not aid us to an interpretation of the meaning of that Act. He points out that the first commission to Sir Guy Carleton cannot avail us, because it was rescinded within a few months of its issue. It is true the commission was so rescinded, but not by reason of any defect in the description of the territory over which he was appointed Governor. The hon. gentleman does not explain the reason of this rescision, nor why he changed his mind as to the effect of it. I do not know what has changed the hon. gentleman's mind, but I do not think it was the recession of the commissions, but rather the non-issue of a commission, about which the hon. gentleman knows something, at a much later day than the period of Sir Guy Carleton. I have disposed of the views of the eminent statesmen who have given their opinions on this subject, and amongst others, the Dawson brothers, and I wish now to refer to another question touched upon by hon. gentlemen opposite, and notably by the hon. member for Richmond and Wolfe (Mr. Ives). That hon. gentleman started out with the proposition that the Quebec Act did fix a definite boundary—a proposition which is denied by the hon. member for Algoma (Mr. Dawson) and in this I am disposed to agree with him. The hon. member for Richmond and Wolfe (Mr. Ives) said that the two commissions which were issued, one on the 27th Dec., 1774, and the other in 1786 to Sir Guy Carleton, and the one to Sir Frederick Haldimand in 1777, do not help us to an interpretation of the Act of 1774. He says there was a definite boundary fixed by that Act, and that commissions issued under it cannot be used to contract or extend the limits given by the Act. No one proposes to use these commissions for the purpose of extending or contracting the boundary fixed by the Act; but if there is any ambiguity in the wording of a Statute—any difficulty in defining its proper interpretation—these commissions may be used for the purposes of putting an interpretation on it; and, if there is any difficulty in putting a proper interpretation on the Act of 1774, we have

a perfect right to consider the history of that enactment, what took place when it was passed in the Imperial Parliament, the surrounding circumstances, and what was done under it. These commissions were issued immediately after the passing of the Act, issued under the advice of the same law officers who advised on the passage of the Act, and the surrounding circumstances threw a flood of light on the interpretation to be put on the Statute. And if the interpretation we put on the Statute, aided by these commissions, proclamations and surrounding circumstances are correct, it is clear to every intelligent man that the western boundary of the Province of Ontario is at least as far west as that mentioned in the award. In the first commission to Sir Guy Carleton, in 1774, the description of the territory over which Sir Guy was appointed to rule, is clear, and it is equally clear that the territory now in dispute is within the limits of the old Province of Quebec—the old Province of Canada—and in consequence within the limits of the Province of Ontario. The description reads in that commission as follows:—

“Thence along the western boundary of the said Province until it strikes the River Ohio, and along the bank of the said river westward to the banks of the Mississippi, and northward along the eastern bank of the said river to the southern boundary of the territory granted to the Merchants Adventurers of England trading to Hudson's Bay.”

The Commission issued to Sir Frederick Haldimand in 1777—three years afterwards—was issued when the aim, object and scope of the Bill was fresh in the recollection of those who were engaged in passing it, and those who were interested in passing it. These two commissions were issued under the direction of the same law officers of the Crown who advised on the Act of 1774—men whose peers have seldom sat in the House of Commons—and they afford the strongest possible argument in favor of our contention that the boundaries westward and northward were, at all events, as far west and north as the boundaries fixed by the award. The second commission issued to Sir Guy Carleton in 1786, does not give precisely the same description as that of 1774, but it is the same in meaning and in substance. The description of that Commission is in the following terms:

“Thence through the middle of said Long Lake and the water communication between it and the Lake of the Woods to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course to the River Mississippi; and northward to the southern boundary of the territory granted to the Merchants Adventurers of England, trading to Hudson's Bay.”

This description to and beyond the Lake of the Woods, overlaps the due north line of modern days. In that

commission is a description to the Mississippi River. Now, it is a clear principle of the law, as laid down by Vattel in his law of nations, that where the description of territories extends to a stream, the boundary of that territory is limited by that stream, and only limited by that stream, and I think that Vattel, on a subject of that kind, is entitled to as much weight as the hon. member for Algoma (Mr. Dawson), or the hon. member for Niagara (Mr. Plumb), the latter of whom made such a powerful and eloquent speech on the subject. Vattel says :

"In case of doubt every country terminating on a river is presumed to have no other limits than the river itself, because nothing is more natural than to take a river for a boundary ; and wherever there is a doubt, that is always to be presumed which is most natural and most probable."

This question came up for adjudication before the United States Courts in the case of *Hadley vs. Anthony*, 5 Wheaton 696, and an eminent Judge of the Supreme Court said on the point :—

"In great questions which concern the boundaries of States, where great natural boundaries are established in general terms with a view to public convenience and the avoidance of controversy, we think the great object, when it can be distinctly perceived, ought not to be defeated by technical perplexities."

In other words, we are to deal with questions in which States are concerned, and this present question is in reality one between two States on a different principle from that in which we would deal with a question where the rights of private individuals alone are concerned. I now come down a little further in the history of this important question, and I find that, after the separation of the Province of Quebec into two Provinces, namely, Upper and Lower Canada, there is a description given of the boundary of the Province of Upper Canada, and that description is as follows :

"To commence at a stone boundary on the north bank of the Lake St. Francis, at the cove west of Pointe au Beaudet in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north 34° west to the westernmost angle of the said Seigneurie of New Longueuil, thence along the north-western boundary of the Seigneurie of Vaudreuil running north 25° east until it strikes the Ottawas river, to ascend the said river into the Lake Temiscaming, and from the head of the said lake by a line drawn due north until it strikes the boundary line of Hudson's Bay, including all the territory to the westward and southward of the said line to the utmost extent of the country commonly called or known by the name of Canada."

Why, the hon. gentleman tells us that to adopt a description or that kind would be to declare war against the United States, because in 1783, when the treaty between England and the United States took place, a large portion of this territory which was then necessarily claimed by Great

Britain was ceded to the United States, and he says that this description would cover a large portion of the territory so belonging to the United States. But the hon. gentleman forgets to tell us, what is manifestly clear, that all the Imperial Government intended by this description was such portions, south and west, as belonged to England at that time. Now, I have shown by documentary evidence, by expressions of opinion on the part of hon. gentlemen on the other side of the House, and by expressions of opinion by some hon. gentlemen on this side of the House, that what we are now claiming for the Province of Ontario is not at all more than we are entitled to get. I have shown, I think, very conclusively, what interpretation was put upon the Act of 1744 by the framers of that Act, by the proclamations and commissions issued under it; and it does appear to me incomprehensible how any other interpretation can be put upon it than the one assigned to it by us. But that is not all. This matter was considered by the late Province of Upper Canada long before the union took place between Upper and Lower Canada, in 1841. After these Provinces were separated, in 1793, the Province of Upper Canada was entitled to Parliamentary Government, not to responsible Government, but still to a Parliament composed of the elected representatives of the people; and for that purpose the old Province of Upper Canada was divided into nineteen constituencies, with boundaries clearly defined in the Act, and proclamation creating the same. In 1792, or thereabouts, an Act of the old Parliament of Upper Canada was passed with respect to the representation of the people in Parliament; and we find that on the 16th of July, 1792, a proclamation was issued under the Great Seal, dividing the Province into counties, which were described in the proclamation. One of these counties we find described as follows:—

"That the nineteenth of the said counties be hereafter called by the name of the County of Kent, which county is to comprehend all the country, not being territories of the Indians, not already included in the several counties hereinbefore described, extending northward to the boundary line of Hudson's Bay, including all the territory of the westward and southward to the same line, to the utmost extent of the country, commonly called or known by the name of Canada," and that the said County of Kent as hereinbefore described shall and may be represented in the said House of Assembly by two members."

I find also that the Surveyor-General of that day, a man named Smith, in 1799 published a topographical description of Upper Canada for the Governor of that Province, in which he reported that Canada on the west extended to the Lake of the Woods and the Mississippi River; if that is so, and it is not denied, the northern boundary

of Canada extended to Hudson's Bay and the western boundary to the Lake of the Woods, practically the boundaries fixed by this award. Then the hon. member for Algoma tells us that the western boundary of Ontario is altogether too far west, and both he and the hon. member for Richmond and Wolfe referred to the De Reinhardt case in confirmation of this view. I have read that case several times, and I think I can challenge any gentleman who reads it intelligently, to rise from its perusal with the conviction on his mind that that case settled the question in any way. Not one of the proclamations or commissions to which I have referred, was laid before the Judge who tried that case; all the documents were as completely ignored as if they had no existence. It is true, the defendant was defended by able lawyers; but strange to say all the documents to which I have referred were absent from the Court. In that case an eminent expert named Saxe was examined for the Crown, and he swore that the word northward did not mean due north, the Judge said that he could not understand that—that the man was talking nonsense. The witness repeated his statement, the Judge bullied him into silence. The Judge assumed to deal, and did deal, with the facts instead of leaving them to the jury. The question of the jurisdiction of the Court to try the prisoner was then raised by his counsel—that question was reserved by the Judge for the consideration of the highest court in the realm; and the only question submitted for the consideration of the court of appeal, was the simple question of jurisdiction. De Reinhardt was convicted; he was not executed, he was pardoned, but on what ground? The only ground, so far as one can judge, from the history of the case, was that the Court had no jurisdiction to deal with the case at all. So far, that case settles nothing; it simply leaves the question where it was; but if it did settle anything, it would be in direct conflict with the expression of opinion of some of the Judges in Upper Canada on the question under consideration, and so as a judicial decision it in no sense settles the controversy. So much for the De Reinhardt case as an exposition of the law and the facts. We have now reached a stage of this question which brings us down to the reference to arbitration and the award. We found gentlemen on both sides of the House pronounced in favor of the position of Ontario, nay, more, of an extension of the western boundary beyond the point where the arbitrators have fixed it; the Conservative party, in days gone by, were as pronounced in that position as the Liberal party; but the Liberal party adheres to its position; the Conservative party hesitates and doubts, nay, more, now claims that Ontario is not entitled

to go farther northward than the height of land, nor farther westward than to a line drawn due north from the junction of the Ohio and Mississippi Rivers. As I stated, that brings us down to the initiation of the proceedings before the arbitrators. The first intimation the people of Ontario or the people of this country had that these gentlemen were deviating from and going back on the record of the past quarter of a century, was upon the 12th March, 1872, when the Dominion Government intimated to the Ontario Government that they were not disposed to yield to their views with respect to the western and the northern boundary. It was then proposed that a commission should be appointed, with the view of settling the boundary to which I have just referred. The Ontario Government at once assented to such a commission for the purpose of settling the boundaries in dispute, but the Dominion Government would only agree to it on certain conditions to which the Government of Ontario could not consent. The Dominion Government made the reference to such Commissioners conditional upon a certain line being agreed upon, namely, that the western boundary should be a line due north from the Ohio and Mississippi, and the northern boundary the height of land—and that the duty of the Commissioners should be limited to fixing such boundaries on the ground. The Ontario Government could not agree to this, and thus the matter stood until the hon. member for Lambton acceded to office, when correspondence between the two Governments was renewed. This correspondence culminated in the Order of Council of 12th November, 1874, agreeing to reference to three distinguished gentlemen of the whole matter in dispute. The hon. member for Richmond and Wolfe strenuously contends that the reference was only intended to fix a conventional line and only did fix a conventional line. I contend the reference says nothing of the kind. I hold in my hand a copy of that reference. What does it say? It says:

"That the Ontario Government having named the Hon. William Buell Richards, Chief Justice of Ontario, as one of the referees, he submits the name of the Hon. Lemuel Allan Wilmet, formerly Lieutenant-Governor of the Province of New Brunswick, to act in conjunction with him, and advises that authority be given them to agree upon a third person, not being a resident of Canada, and that the determination of a majority of such three referees be final and conclusive upon the limits to be taken as and for such boundaries respectively."

Does that reference point to a conventional line? Not at all. If you will turn to the award itself, you will find it is equally clear, definite and distinct. There is, therefore, no ground for the objections raised by hon. gentlemen opposite, that this reference was only intended to be conventional, and that the award itself only fixed a conventional

line. I have a few words to say with reference to this award, and its binding affect upon the Dominion Government. I lay it down with great confidence that the award is binding both at law and equity. This arbitration was agreed to by both Governments. The Dominion Government agreed, by an Order in Council, dated 12th November, 1874, that this reference should take place; and that the boundary lines of Ontario should be settled by this arbitration. The Ontario Government agreed to the same reference, and the arbitrators entered upon the discharge of their duties. The award was made by the arbitrators on the 3rd August, 1878, shortly before the defeat of the late Government. It was the unanimous award of the three arbitrators; it was made after a most thorough and exhaustive investigation of all the evidence that could be submitted on both sides; it was made after having heard the arguments of able counsel; it was made after due weight had been given to every argument that could be advanced for or against the position of Ontario. Who was it made by? Do hon. gentlemen opposite challenge the arbitration or the arbitrators? Are they bold enough to cast any reflection on the honesty and integrity of the arbitrators? No, Sir, they have not the courage to do so. It is true they challenge the award, but they do not question the honesty of the arbitrators; they could not do so—more eminent or distinguished men could not well be found. Every one who knew the late Chief Justice Harrison knew him to be a man of transcendent ability and indefatigable labor—a man, who when he once entered on the discharge of any duty, stuck to it with unflinching ardour until he understood it from beginning to end. I am satisfied that when Chief Justice Harrison undertook to deal with this question, he dealt with it thoroughly and exhaustively; and those of us who know Sir Francis Hincks, and Sir Edward Thornton, know they were eminently qualified to deal with a question of this kind—a mixed question of law and fact. The arbitrators made their award in August, 1878. Did hon. gentlemen opposite, when they came into power, repudiate the award? No, they did not. On the contrary, they ratified the award as far as they could do so without Parliamentary sanction. The Ontario Government drew the attention of this Government to the award on the 1st November, 1878. Was the answer a repudiation? No, Sir; it was simply an acknowledgment of the receipt of the communication, without any protest. On the 31st December, 1878, the Ontario Government again drew the attention of the Dominion Government to the award with the view of securing the ratification, at the ensuing Session of Parliament, and the answer again

was a simple acknowledgment. On the 3rd September, 1879, and the 19th December, 1879, the Ontario Government again communicated with the Dominion Government, asking for a ratification of the award and pointing out the injurious effects in the territory of the unsettled condition of affairs. The reply was a mere formal acknowledgment, nothing more. The first intimation the people of Ontario had of the repudiation of this award was not until recently; and then for the first time the Government submit that this award should not be confirmed, on the ground that the Executive Government transcended their authority in agreeing to the reference. I do not propose entering on an exhaustive argument on the power of the Executive to agree to this reference without the prior consent of Parliament. The hon. member for Bothwell, than whom no man is better able to deal with a question of this kind, has dealt with it exhaustively, and I think no man, open to conviction, who has listened to his able argument, can fail to be convinced of the correctness of the position taken by my hon. friend. I, therefore, assume that the Executive had the authority. It is clear that this executive power has been exercised without question in many modern instances—the boundary between Maine and New Brunswick, the Oregon Boundary, the Geneva Award, the Washington Treaty, were all the result of executive action alone, in some instances subsequently ratified by Parliaments. Assuming, then, that the Executive had the authority to consent to a reference, the award should at once have been ratified—but even assuming that the Executive had no such power, still are we to be told now that when one Government, acting in good faith, and in the exercise of its functions, consented to a reference, in order to settle a question that remained unsettled for a quarter of a century, and the importance of which one cannot over-estimate, that the successors of that Government are not to be bound by the reference? No man and no Government would be safe in dealing with a Government that entertained such extraordinary views as hon. gentlemen opposite now contend for. Sir, I take the ground, and I take it with confidence, that it was within the competence of the Executive to make the reference, and that the Executive having consented to it, and both Governments being represented before the arbitrators, this country is legally, morally and equitably bound to confirm that award. But there is something further—I say that hon. gentlemen opposite have recognized this award; that the Government and Parliament have acquiesced in it. There is no clearer legal principle than this, that if two persons agree to a reference, even though the reference should be irregular, or void, yet if the parties, with

a k
tak
qu
to n
Gov
arbi
but
Go
\$15,
was
was
at o
the
this
Why
Parl
terri
Parli
repre
Gove
count
to O
and l
for co
the co
hon. r
duty,
the tr
opinio
marke
true in
base o
light b
facts h
to char
this c
subject
and m
resistin
leads t
the act
inward
by the
organ o
what th
Ontario
gentlem
marks y
is not th

a knowledge of the facts, appear before the arbitrators and take their chances, such parties are for ever estopped from questioning the award on such grounds. The point I desire to make here is that even if the reference were illegal, both Governments having taken their chances before the arbitrators, both are equally bound by the award; but in addition to all this, this very Parliament and Government have expressly recognized the award by voting \$15,000 to pay the cost of the reference. If this reference was illegal, and if this award is so much waste paper, it was the bounden duty of the Government to repudiate it at once and to repudiate any liability for the expenses; but the Government of the day fully recognized the validity of this award in the way I have suggested and otherwise. Why, Sir, the hon. member for Algoma sits to-day in Parliament as a representative of a portion of this very territory, as part of Ontario. By allowing him to sit in Parliament as a member from the Province of Ontario, representing a portion of this very disputed territory, the Government thereby recognizes that this portion of the country belongs to Ontario. If it does not belong to Ontario, the hon. gentleman has no business here, and he had no business to sit in the Ontario Legislature for four years, as a representative in it of that section. If the contention of hon. gentlemen opposite is correct, the hon. member is an intruder, a stranger, here, and it is your duty, Mr. Speaker, to eject him from Parliament. What is the true secret why hon. gentlemen have changed their opinions on this boundary question, and now exhibit such marked hostility to the interests of Ontario? What is the true inwardness of this sudden and extraordinary change of base on the part of hon. gentlemen opposite? What new light has dawned on their dark minds? What additional facts have been brought to light and that has induced them to change their views? If there is anything to account for this change, no one has informed the House on the subject. Does not the *Mail* give the key-note to the motives and mainsprings that actuate hon. gentlemen opposite in resisting this award? Has the respectable politician who leads the Opposition in Ontario not given the key-note to the actions of hon. gentlemen opposite? Has the true inwardness of the movement not been unwittingly disclosed by the Ontario leader of the Conservative party and by the organ of the party? No doubt they have. Let us see what the *Mail*, that re-echoes the views of the leader of the Ontario Opposition, and that speaks the sentiments of hon. gentlemen, says on the subject, and when you hear its remarks you will say that I am about right in saying that it is not the merits of the case, or the interests of the country

that actuates hon. gentlemen opposite, but the interests of the Conservative party. The *Mail* says :

"The Grit party has no possible hope of getting into power in 1883. If then it is essential that in order to obtain a settlement of the boundary question, parties in Ottawa and Toronto must be at one with each other, the public will probably think that it is better that Mr. Mowat should go out in order that Ontario should get all these millions rather than that he should remain in and sacrifice them. * * * If the people of Ontario are in earnest, they will speedily teach Mr. Mowat that he and his cabal must not stand between the Province and the acquisition of a territory which is declared to be of such inestimable value." Prodigious!

Does that article not give the key-note; does it not show that, in order to manipulate the elections in Ontario, it is necessary to convince the electors that they cannot get justice from the hon. gentlemen opposite while Ontario is controlled by the Liberal party, but that a change of Government in Ontario will be followed by a change of policy in Ottawa? Hon. gentlemen make a terrible mistake if they suppose that, by threats of the kind, they can influence the independent electors of the great Province of Ontario. Let me advise hon. gentlemen opposite to pursue the policy that statesmen ought to pursue, and to remember that honesty in politics, as in everything else, is the best policy; if the Province of Ontario is right in her contention, let that right prevail, and let this award be confirmed. Hon. gentlemen opposite never made a greater mistake than when they allowed the organ of the party to publish the extract I have just read, and to have it go abroad to the world that justice is dealt out according to political bias. Sir, if there is one thing more than another calculated to arouse the people of Ontario it is the conviction that wrong is being done them by political wire-pullers for political purposes. I believe they are aroused, thoroughly in earnest, and that when the time comes to pronounce on this subject at the polls, as come it soon will, the indignant voice of outraged Ontario will make itself heard—loud and clear—from Ottawa to the Hudson's Bay. There is one way, and one only, by which hon. gentlemen can escape. Let them carry out this award, and then they may expect to command the respect of this House and secure some share of the sympathy of Ontario.

rests of

in 1883. If
boundary
each other,
at should
her than
people of
at he and
sition of a
prodigious!

not show
rio, it is
not get
ntario is
ange of
hange of
mistake
they can
Province
e to pur-
o remem-
se, is the
t in her
ward be
a greater
party to
ave it go
ording to
n another
e convic-
re-pullers
aroused,
comes to
soon will,
ake itself
son's Bay.
gentlemen
then they
ouse and

Wellington